

DECISION  
TALBOT COUNTY BOARD OF APPEALS  
Appeal No. 16-1647

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 7:00 p.m., June 13, 2016, to consider the application of **TANGENT ENERGY SOLUTIONS-SHORTALL SOLAR ARRAY** ("Applicant"). The Applicant is requesting a special exception to establish a "utility structure" use consisting of photovoltaic solar panel arrays, associated inverters, equipment, and access road on approximately 5.48 acres. The property is located on 30711 Matthewstown Road, Easton, Maryland 21601 in the Agricultural Conservation (AC) zone. The property owners are Emma Jean Morgan and Theresa Ann Shortall. The request is made in accordance with Chapter 190 Zoning, Article III, §190-16 and Article IX, §190-180 of the Talbot County Code ("Code").

Present at the hearing were Board of Appeals members Paul Shortall, Jr., Chairman, Phillip Jones, Vice Chairman, John Sewell, Margaret Young, and Louis Dorsey. Tom Glass, Lane Engineering, LLC, 117 Bay Street, Easton, Maryland 21601 and Andy Meserve, Tangent Energy, P.O. Box 1140, Kennet Square, Pennsylvania 19348 appeared and presented evidence in support of the application. Jeremy Rothwell, Planner I, appeared on behalf of the Talbot County Office of Planning and Zoning. Glenn D. Klakring was the attorney for the Board of Appeals.

It was noted for the record that all members of the Board had individually visited the site.

The following exhibits were offered and admitted into evidence as Board's Exhibits as indicated:

1. Application for special exception with Attachment A.
2. Copy of a portion of the Talbot County tax map with the property highlighted.
3. Notice of Public Hearing.

4. Certificate of publication of the Notice of Public Hearing from the *Star-Democrat*.
5. Notice of hearing with a list of nearby property owners attached.
6. Copy of special exception requirements from the zoning ordinance with the Applicant's response to each applicable requirement attached.
7. Staff Report.
8. Planning Commission Comments.
9. Sign maintenance agreement.
10. Site Plan prepared by Lane Engineering.
11. Comments from the State Highway Administration dated June 7, 2016.
12. Authorization letter by Theresa Shortall by email on May 20, 2016.
13. Independent Procedure Disclosure and Acknowledgement Form.
14. Aerial photograph.
15. Photographs from site visit on April 26, 2016.
16. Aerial exhibit by Lane Engineering.

The first witness was Mr. Glass. He explained that the Applicant wishes to construct a one megawatt solar array to generate electricity. The array is proposed to be located on 5½ acres on the southeast portion of a 230.8 acre parcel. The proposed site for the array is a significant distance from any nearby public road.

Mr. Glass said that the Planning Commission voted to approve the project. The Planning Commission also waived the street tree requirement because of the distance of the proposed array from any public road. But, the Commission, as a condition, recommended that the Applicant post a bond,

payable to the County, for the removal of the array and restoration of the property, in the event the array becomes unused or the lease expires.

The array is located about 2,400 feet from Matthewstown Road and about 1,200 from the nearest residential structure. Three sides of the site are screened by existing forested land. The project will not require any removal of forests and the site respects all stream and forest buffers. The arrays will be at least 100 to 150 feet from the forest fringe so that the solar panels are not in the shade.

Mr. Glass suggested that the proposal is consistent with the Talbot County Comprehensive Plan which encourages the use of renewable energy sources. The project will utilize the existing topography of the land and will require little, if any, grading. No topsoil will be removed. The project will fit seamlessly in with the land as it exists.

He suggested that solar arrays are passive in nature and cause no disturbance of the surrounding properties, especially this proposed site. The site is a sloping part of the existing farmland. The land under and around the solar panels will be converted to meadowland. That should help prevent erosion on the site. The access road will be next to an existing fence row and will not require the removal of additional farmland from tillage.

Other than the initial construction period there will be minimal traffic on the site. Normal routine maintenance will probably occur once per quarter. The site will only require simple mowing but no pesticides or herbicides. It is a passive, low impact development. It will not create noise and is hidden from view by both motorists and nearby landowners.

The proposed development is not a nuisance to the surrounding community. It will be enclosed by a fence and no trespassing signs. It will not impact public facilities or services, traffic, or parking and will not increase the use of public facilities or services in the County. It will not require the creation of

off-street parking. The access road will utilize an existing farm access from a public road. The State Highway Administration does not have any issues with the proposed use of the existing farm road for access from the public road. The project will not require any forest clearing and should not impact wildlife other than perhaps create new habitats. It will not impact any adjacent agricultural use of surrounding properties.

In response to a question from a member of the Board Mr. Meserve said that Tangent will sell the electricity generated on the site to Choptank Electric Cooperative for use on its grid. It is not directly for the use of the landowner who may purchase electrical service from Choptank. Instead, the landowner will receive income from leasing the land to Tangent. The solar panels are owned by Tangent. He said it is very much like a farm lease.

Mr. Merserve said that the solar panels convert sunlight into direct electrical current which is routed to an inverter which converts the current to alternating current. The alternating current can be transmitted more efficiently to Choptank's grid for ultimate distribution to consumers.

Mr. Glass said that the fence for the proposed site will be seven feet.

Mr. Merserve said that the modules will be sited to maximize their exposure to the sun. He said that there will be somewhat over 4,000 individual panels. There will be sufficient space between panel modules to keep them from shading one another.

He said that Tangent will be responsible for the maintenance of the meadow grasses on the site. Mr. Glass said that that the County will require a certain mix of grasses to be planted on the site.

In response to a question from a Board member Mr. Meserve said that the solar panels are not reflective. He said that the silicon which is used in the panels is coated to absorb as much sunlight as possible. In addition, the glass used to cover the silicon is antireflective which actually reflects

unabsorbed light back to the silicon in the panel. As a result very little light is reflected by the panels. There is some reflected light but it is small enough that solar arrays have actually been sited near airports without any impact.

Mr. Meserve said that posts to support the panels will be driven into the ground by a machine and not by using any sort of digging. The posts will use the compression of the soil to support the posts. He said the solar panels are warranted to last for 25 years but should last for 40 years or more. There may be some degradation caused by weathering but, because there are no moving parts there is no wear to the equipment caused by friction.

No one appeared in opposition to the proposal.

There being no further evidence, the Board considered the application. Upon motion duly made and seconded, the Board made the following findings of fact and law:

1. All legal requirements pertaining to a public meeting were met.
2. The proposed use is consistent with the purposes and intent of the Talbot County Comprehensive Plan and complies with the standards of the land use district in which it is located. The Plan encourages the use of renewable energy resources.
3. The proposed use will comply with the standards of the zoning district in which it is located, except as those standards may have been modified by the granting of a variance. The proposal will use only a small portion of the subject property in an area away from any public roads or other residential property. It has an existing access from the public road.
4. The scale, bulk and general appearance of the use will be such that the use will be compatible with adjacent land uses and with existing and potential uses in its general

area, and will not be detrimental to the economic value of neighboring property. The proposed use is compatible with the nearby residential commercial, maritime, and agricultural properties.

5. The use will not constitute a nuisance to other properties and will not have significant adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances. With the conditions imposed with these special exceptions the facility should not constitute a nuisance or otherwise have adverse impacts.
6. The use will not have significant adverse impact on public facilities or services including roads, schools, water and sewer facilities, police and fire protection, or other public facilities or services. Any traffic associated with the use will be minimal including traffic during installation. The proposed use will not require the addition of water and sewer facilities to service the site. Existing police and fire protection are sufficient for any foreseeable emergency needs created by the use.
7. The use will not have a significant adverse effect upon marine, pedestrian or vehicular traffic given the conditions of this approval.
8. The use will not produce traffic volumes which would exceed the capacity of public or private roads in the area or elsewhere in the County, based on the road classifications established in Chapter 134, the Talbot County Roads and Bridges Ordinance, and other applicable standards for road capacity.
9. Any vehicle access to proposed off-street parking areas and drive-in facilities are designed to minimize conflicts between vehicular, bicycle and pedestrian traffic and to

minimize impacts on adjacent properties and on public or private roads. The proposal will not result in any increase in commercial and truck traffic using residential streets and will not create a hazard to developed residential areas.

10. The proposed use will not adversely affect wildlife with respect to the site's vegetation, water resources, or its resources for supplying food, water, cover, habitat, nesting areas, or other needs of wildlife.
11. The proposed use will not adversely affect any adjacent existing agricultural uses. The use should have no such impact.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY THE TALBOT COUNTY BOARD OF APPEALS,

RESOLVED, that the Applicant, **TANGENT ENERGY SOLUTIONS-SHORTALL SOLAR ARRAY** (Appeal No. 16-1647) is **GRANTED** the requested special exception, consistent with the evidence submitted to the Board of Appeals and subject to the following conditions. (The conditions set forth herein apply to the Applicant and to any of its successors or assigns.)

1. The Applicant shall make applications to, and follow all of the rules, procedures, and construction timelines as outlined by the Office of Permits and Inspections regarding new construction.
2. The Applicant shall obtain Site Plan approval and a Screening/Street Tree Waiver through the Planning Commission, and comply with all conditions of said approval.
3. The Applicant shall control and minimize the growth of noxious weeds on the site.
4. In the event that the Applicant no longer uses the solar panel array for the generation of electricity for a period of more than one year it shall remove same and restore the

property so used to its former condition, unless an alternative use is approved by the Board of Appeals. The Applicant shall purchase and maintain a bond in the favor of Talbot County to insure such restoration of the property.


The vote of the Board of Appeals was five to zero to grant the special exception subject to the aforementioned conditions.

GIVEN OVER OUR HANDS, this 26th day of July, 2016.

**TALBOT COUNTY BOARD OF APPEALS**

  
Paul Shortall, Jr., Chairman

  
Phillip Jones, Vice Chairman

  
John Sewell

  
Margaret Young

  
Louis Dorsey, Jr.

Board of Appeals/1647.TangentEnergy.SpecialException